

December 19, 2002

Cecilia Duquela Fuentes
State Representative
Office of Juvenile Justice and Delinquency Prevention
State and Tribal Assistance Division
800 K Street, NW
Washington, DC 20531

Dear Ms. Duquela Fuentes:

The State of Arizona continues to actively support the core requirements of the Juvenile Justice Delinquency Prevention Act of 1974 to ensure the fair and equitable treatment of juveniles. While continuing to make strides in improving the compliance monitoring process in Arizona, the State has also undertaken a significant effort to improve the conditions of confinement of juveniles. Over the past few years, most counties in Arizona have received funding to either remodel or construct new juvenile detention centers. These improvements have made significant enhancements in the conditions of juvenile detention and the ability to provide enhanced education, medical, and treatment services in the facilities.

Enclosed is Arizona's 2002 Compliance Monitoring Report. The report covers the period from July 1, 2001 through June 30, 2002. It should be noted that Arizona has changed its reporting period for the 2002 report; therefore, data from July-September 2002 is duplicated from the 2001 Compliance Monitoring Report.

As you are aware, Arizona submitted an addendum to the 2001 Compliance Monitoring Report pursuant to a request stemming from your October 2002 site visit. Arizona has significantly enhanced its compliance monitoring process as described in the addendum, and some highlights of these improvements include:

- intensive technical assistance throughout the State regarding the core requirements;
- comprehensive review of the facilities in the compliance monitoring universe database (which ultimately doubled the number of facilities in the universe);
- thorough review of all compliance reporting forms in use and subsequent revision to capture all necessary compliance data;
- site visits to each law enforcement agency and its substation facilities, as well as every county juvenile detention center (whereas only the minimum site visits to facilities had previously been conducted);
- substantial increase in the number of facilities reporting (including exempt facilities not previously reporting); and,
- establishment of a comprehensive manual detailing compliance monitoring processes in Arizona.

As a result of the revision of the reporting process and the training and technical assistance that has been provided around the State, expectations have been clarified for agencies within the compliance monitoring universe. As agencies become fully aware of reporting expectations, more timely and accurate reports are submitted by more agencies.

Understandably, this enhanced monitoring process continues to have an impact on the number of violations reported. Arizona is continuing with the activities highlighted in the 2001 addendum and discussed in the 2002 report to address and reduce core requirement violations.

If you have any questions and/or comments regarding the report, please contact myself at (602) 542-3404 or Kim Bendon, Compliance Monitoring Specialist, at (602) 542-3193.

Sincerely,

Vernon Speshock
Juvenile Justice Specialist
Governor's Division for Children

**Compliance Monitoring Report
Technical Assistance Tool**

This form requests the minimum information required to demonstrate the extent of compliance with section 223(a)(12)(A), 223(a)(12)(B), 223(a)(13), 223(a)(14) of the JJDP Act of 1974, as amended. The reporting requirements may be found in 28 C.F.R. 31.303(f)(5): Reporting Requirement. This form is a technical assistance tool and its use is optional. For questions regarding this technical assistance tool, please contact your OJJDP State Representative at (202) 307-5924. This version is dated October 2001.

**A. General
Information:**

1. Year of Monitoring Report: **2002**

2. Name and Address of State Planning Agency:

Name of State Agency:

Address Line 1:

Address Line 2:

Governor's Community Policy Office

Division for

Children

1700 West Washington, Suite 101

City: **Phoenix**

State: **Arizona**

Zip: **85007**

3.

Contact Person's Name:

Contact Phone Number:

Vernon Speshock, JJ Specialist

(602) 542-3404

4. During the State's monitoring effort, was the Federal definition or State definition for Criminal Type Offender, Status Offender, or Non-Offender used?

Federal Definitions were used in this monitoring report.

5. Total juvenile population of the State under age 18 according to the most recent available U.S. Bureau of Census data or census projection:

Population of Arizona Under 18 (2000 Census):

1,366,947

6. Enter the age at which original juvenile court jurisdiction ends:

18

7. Enter the reporting period dates for this Compliance Monitoring Report.

Facility Classification	Reporting Period Begins	Reporting Period Ends	Total Months Reporting
Juvenile Detention Centers	07/01/01	07/01/02	12.00
Juvenile Training Schools	07/01/01	07/01/02	12.00
Adult Jails	07/01/01	07/01/02	12.00
Adult Lockups	07/01/01	07/01/02	12.00

8. Enter the total number of public and private secure detention and correctional facilities, the total number of facilities reporting data (include in this number the facilities that annually submit written certification that they never hold juveniles), and the number of facilities which received an on-site inspection during the past twelve months.

Facility Classification	Total Number of Facilities	Facilities Reporting Data	Facilities On-Site Inspected
Juvenile Detention Centers	13	13	13
Juvenile Training Schools	7	7	1
Adult Jails	34	34	22
Adult Lockups	98	98	96
Collocated Facility (Approved)	0	0	0
Collocated Facility (Non-approved)	0	0	0
Facility Classification	Percentage Reporting Data		Percentage Inspected
Juvenile Detention Centers	100.00%		100.00%
Juvenile Training Schools	100.00%		14.29%
Adult Jails	100.00%		64.71%
Adult Lockups	100.00%		97.96%
Collocated Facility (Approved)	#N/A		#N/A
Collocated Facility (Non-approved)	#N/A		#N/A

9. Enter the number of public and private secure detention and correctional facilities which held juveniles during the past twelve months. If your State has received approval from OJJDP to use the Removal Exception, also indicate the number of facilities located outside a Metropolitan Statistical Area which meet this exception.

Facility Classification	Total Number of Facilities Holding Juveniles	Total Number of Facilities Meeting the Removal Exception
Adult Jails	2	0
Adult Lockups	62	0

B. Section 223(a)(12)(A): Removal of status offenders and non-offenders from secure detention and correctional facilities.

- 1. Enter the total number of accused and adjudicated status offenders and nonoffenders, including status offender Valid Court Order violators, out-of-state runaways and Federal wards, securely detained for any length of time in the following public and private facilities:**

(Do not include juveniles held in violation of the Youth Handgun Safety Act or similar State law.)

Facility Classification	Accused Number Reported	Adjudicated Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	0	0	0.00
Adult Lockups	159	0	159.00

- 2. Enter the total number of accused status offenders and nonoffenders, including out-of-state runaways and Federal wards, securely detained for longer than 24 hours (not including weekends or holidays) in the following public and private facilities:**

(Do not include juveniles who have violated a Valid Court Order or juveniles held in violation of the Youth Handgun Safety Act or a similar State law.):

Facility Classification	Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Juvenile Detention Centers	398	398.00
Juvenile Training Schools	0	0.00

- 3. Enter the total number of adjudicated status offenders and nonoffenders, including out-of-state runaways and Federal wards, securely detained for any length of time in the following public and private facilities:**

(Do not include juveniles who have violated a Valid Court Order or juveniles held in violation of the Youth Handgun Safety Act or a similar State law.):

Facility Classification	Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Juvenile Detention Centers	4	4.00
Juvenile Training Schools	0	0.00

Section 223(a)(12)(A): Total Number of Violations

561.00

Section 223(a)(12)(A): Rate of status offender and nonoffender detention and correctional institution-alization per 100,000 population under 18:

41.04

4. Enter the total number of status offenders securely detained in the following public and private facilities pursuant to a judicial determination that the juvenile has violated a Valid Court Order:

Facility Classification	Number of VCOs Reported	Total VCOs After Adjusting for Non-Reporting Facilities and Annualizing
Juvenile Detention Centers	0	0.00
Juvenile Training Schools	0	0.00

5. Enter the total number of juveniles held pursuant to Title 18 U.S.C., Section 922(x) (The Youth Handgun Safety Act), securely detained for any length of time in the following public and private facilities:

Facility Classification	Number of 922(x) Juveniles Reported	Total 922(x) Juveniles After Adjusting for Non-Reporting Facilities and Annualizing
Juvenile Detention Centers	0	0.00
Juvenile Training Schools	0	0.00
Adult Jails	0	0.00
Adult Lockups	0	0.00

6. Enter the total number of out-of-State runaways and Federal wards securely held beyond 24 hours in a juvenile detention center or training school:

Facility Classification	Out-of-State Runaways	Federal Wards	After Adjusting for Non-Reporting Facilities and Annualizing	
			Runaways	Federal Wards
Juvenile Detention Centers	54	194	54.00	194.00
Juvenile Training Schools	0	0	0.00	0.00

7. Enter the total number of accused and adjudicated status offenders and non-offenders placed in facilities that are:

	Number of Juveniles:
Not near their home community	0
Not the least restrictive appropriate alternative	0
Not community-based	0

C. Section 223(a)(13): Separation of Juveniles and Adults.

1. Enter the number of public and private correctional facilities used for secure detention and confinement of both juvenile offenders and adult offenders which did not provide sight and sound separation:

Facility Classification	Number of Facilities That Did Not Provide Sight and Sound Separation of Juveniles
Juvenile Detention Center	0
Juvenile Training School	0
Adult Jails	0
Adult Lockups	1

2. Enter the number of juvenile offenders and nonoffenders not sight and sound separated from adult criminal offenders:

Facility Classification	Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Juvenile Detention Center	0	0.00
Juvenile Training School	0	0.00
Adult Jails	0	0.00
Adult Lockups	2	2.00

3. For approved collocated facilities, enter the number of juvenile offenders and nonoffenders detained that were not separated from the management, security or direct care staff of the adult jail or lockup.

Facility Classification	Number Reported
Approved Collocated Facility	0

Section 223(a)(13): Total Number of Violations:

2.00

D. Section 223(a)(14): Removal of juveniles from adult jails and lockups.

1. Enter the total number of accused juvenile criminal-type offenders held securely in adult jails, lockups, and non-approved collocated facilities in excess of six (6) hours:
(Include juveniles held longer than six hours in those counties meeting the removal exception criteria.)

	Number Reported	Total Violations After Adjusting for Non- Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	31	31.00

2. Enter the total number of accused juvenile criminal-type offenders held securely in adult jails, lockups, and non-approved collocated facilities for less than six (6) hours for purposes other than identification, investigation, processing, release to parent(s), transfer to court, or transfer to a juvenile facility following initial custody:

	Number Reported	Total Violations After Adjusting for Non- Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	0	0.00

3. Enter the total number of adjudicated juvenile criminal-type offenders held securely in adult jails, lockups, and non-approved collocated facilities in excess of six hours prior to or following a court appearance or for any length of time not related to a court appearance:

	Number Reported	Total Violations After Adjusting for Non- Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	0	0.00

4. If your State has received approval from OJJDP to use the Removal (Rural) Exception, enter the total number of juveniles accused of a criminal-type offense who were held in excess of six hours but less than twenty-four hours awaiting an initial court appearance in areas meeting the Removal Exception.

	Number Reported	Total After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	0	0.00

5. If your State has received approval from OJJDP to use the Removal Exception, enter the total number of juveniles accused of a criminal-type offense who were held in excess of twenty-four hours but less than an additional forty-eight hours awaiting an initial court appearance in areas meeting the Removal Exception due to conditions of distance or lack of ground transportation.

	Number Reported	Total After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	0	0.00

6. If your State has received approval from OJJDP to use the Removal Exception, enter the total number of juveniles accused of a criminal-type offense who were held in excess of twenty-four hours but not more than an additional twenty-four hours after the time such conditions as adverse weather allow for reasonably safe travel in areas meeting the Removal Exception.

	Number Reported	Total After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	0	0.00

**Section 223(a)(13): Jail Removal
Violations:**

Total Jail removal violations listed above in numbers 1-3	31.00
Subtract total Jail Removal Exceptions reported above in numbers 4-6	0.00
Add accused and adjudicated status offenders held securely in adult jails and lockups reported in DSO worksheet	159.00

**TOTAL NUMBER OF JAIL REMOVAL
VIOLATIONS: 190.00**

Total juvenile population of the State under the age at which original juvenile court jurisdiction ends, according to the most recent available U.S. Bureau of Census data or census projection. (This was previously reported in the "General Info" section.) **1,366,947**

**Section 223(a)(12)(A): Rate of jail removal violations
per 100,000 population under 18: 13.90**

Arizona Compliance Monitoring Report 2002 State Summary: DSO

Section 223(a)(12)(A): Removal of status offenders and non-offenders from secure detention and correctional facilities.

**Rate of status offender and nonoffender detention and
correctional institutionalization per 100,000 population under 18: 41.04**

The State is likely ineligible for a finding of full compliance with de minimis exceptions because of excessive and significant levels of DSO violations. Contact your OJJDP State Representative to discuss this.

Criterion B: The extent to which the instances of non-compliance were in apparent violation of State law or established executive or judicial policy.

Criterion B:

The following information must be provided in response to Criterion B and must be sufficient to make a determination as to whether the instances of non-compliance with DSO as reported in the State's monitoring report were in apparent violation of, or departures from, State law or established executive or judicial policy. OJJDP will consider this criterion to be satisfied by those States that demonstrate that all or substantially all of the instances of non-compliance were in apparent violation of, or departures from, State law or established executive or judicial policy. This is because such instances of noncompliance can more readily be eliminated by legal or other enforcement processes. The existence of such law or policy is also an indicator of the commitment of the State to the deinstitutionalization requirement and to achieving and maintaining future 100% compliance. Therefore, information should also be included on any newly established law or policy which can reasonably be expected to reduce the State's rate of institutionalization in the future.

1. A brief description of the non-compliant incidents must be provided which includes a statement of the circumstances surrounding the instances of noncompliance. (For example: Of 15 status offenders/nonoffenders held in juvenile detention or correctional facilities during the 12 month period for State X, 3 were accused status offenders held in jail in excess of 24 hours, 6 were accused status offenders held in detention facilities in excess of 24 hours, 2 were adjudicated status offenders held in a juvenile correctional facility, 3 were accused status offenders held in excess of 24 hours in a diagnostic evaluation facility, and 1 was an adjudicated status offender placed in a mental health facility pursuant to the court's status offenders jurisdiction.) Do not use actual names of juveniles.

2. Describe whether the instances of non-compliance were in apparent violation of State law or established executive or judicial policy. A statement should be made for each circumstance discussed in item 1 above. A copy of the pertinent/applicable law or established policy should be attached. (For example: The 3 accused status offenders were held in apparent violation of a State law which does not permit the placement of status offenders in jail under any circumstances. Attachment "X" is a copy of this law. The 6 status offenders held in juvenile detention were placed there pursuant to a disruptive behavior clause in our statute which allows status offenders to be placed in juvenile detention facilities for a period of up to 72 hours if their behavior in a shelter care facility warrants secure placement. Attachment "X" is a copy of this statute. A similar statement must be provided for each circumstance.)

Criterion B

1. A brief description of the non-compliant incidents must be provided which includes a statement of the circumstances surrounding the instances of non-compliance. (For example, Of 15 status offenders/nonoffenders held in juvenile detention or correctional facilities during the 12 month period for State X, 3 were accused status offenders held in jail in excess of 24 hours, 6 were accused status offenders held in detention facilities in excess of 24 hours, 2 were adjudicated status offenders held in a juvenile correctional facility, and 1 was an adjudicated status offender placed in a mental health facility pursuant to the court's status offenders jurisdiction.) Do not use actual names of juveniles.

Answer:

Arizona has markedly improved its system for compliance monitoring since early 2001. Understandably, this increase in monitoring has had a significant impact on the number of reported violations.

Arizona had a total of 561 actual DSO violations during the 2002 reporting year. The breakdown of these violations is as follows:

Adult Lockups

Total violations: 159 (28 percent of total)

Accused Status Offenders in a Secure Area for Any Length of Time

Charges	Number of Violations
In State Runaway	38
Curfew	21
Minor In Possession	67
Truancy	1
Out of State Runaway	7
Incorrigible	4
Charges Not Provided	3
TOTAL	141

Non-offenders in a Secure Area for Any Length of Time

Charges	Number of Violations
Found Juveniles	6
Hold for CPS	3
No Charges Filed	8
Charges Not Provided	1
TOTAL	18

Juvenile Detention Centers

Total Violations: 402 (72 percent of total violations)

Charges	Number of Violations
Non-offenders	2
Truancy	3
Incorrigible	4
Curfew	3
Alcohol	20
In-State Runaway	3
Out-of-State Runaways	54
Federal Wards	194
Adjudicated Status Offenders	4
Violations of a VCO ¹	114
Charges not provided	1
TOTAL	402

It should be noted that when the Federal Ward and Out-of-State Runaway violations are removed from the total DSO violation count, there are only 154 remaining DSO violations, which would give Arizona a revised violation rate of 23.19.

A factor that had a major effect on the number of Arizona's DSO violations during the 2002 reporting year was the revised reporting process initiated in Arizona's largest county juvenile court. The revised process now includes reviews of minor in possession charges and warrant/violation of probation cases for status offenders (VCO cases).

This more stringent and accurate review resulted in an increase of reported violations by approximately *618 percent from the 2001 reporting year*. **All violations (except one) in this county juvenile court during the 2002 reporting year were either VCO (72 percent) or out-of-state runaway (27 percent) cases.**

2. Describe whether the instances of non-compliance were in apparent violation of State law or established executive or judicial policy. A statement should be made for each circumstance discussed in item 1 above. A copy of the pertinent/applicable law or established policy should be attached. (For example, The 3 accused status offenders were held in apparent violation of a State law, which does not permit the placement of status offenders in jail under any circumstances. Attachment "X" is a copy of this law. The 6 status offenders held in juvenile detention were placed there pursuant to a disruptive behavior clause in our statute which allows status offenders to be placed in juvenile detention facilities for a period of up to 72 hours if their behavior in a shelter care facility warrants secure placement. Attachment "X" is a copy of this statute. A similar statement must be provided for each circumstance.)

¹ Although juvenile detention centers reported detentions as a result of a violation of a valid court order, there is no a formal court process or verification in place to ensure all criteria on the OJJDP valid court order checklist are in place. Therefore, these detentions have been included in the total number of violations of the DSO criteria.

Answer:

Data reported by adult jails and lockups show that of the 159 actual DSO violations during the 2002 reporting year, 58 percent were in apparent violation of Arizona Revised Statute (A.R.S) § 8-305. Paragraph D of this law (page 9d) states that status offenders (incorrigibles) may not be securely detained in an adult jail or lockup. Offenses that are not in apparent violation of State law are minor in possession offenses due to the fact that A.R.S. § 4-244, (page 9e) paragraph 9, states that it is illegal for a minor to possess or consume spirituous liquor; A.R.S. § 4-246 (page 9e) classifies a violation of § 4-244.9 as a class 1 misdemeanor (delinquent charge).

Data reported by juvenile detention centers show that there were 402 actual DSO violations in the 2002 reporting year. However, of that 402, a total of 248 (62 percent) were Federal Wards and out-of-state runaways. **Therefore, only 154 (38.3 percent) violations were actual status offenders detained.**

Further, a total of 114 of these detentions may have qualified as a VCO exception; however, because Arizona does not have this process in place, these detentions must be reported as violations. If the VCO were in use, only 40 violations (10 percent) would remain. It is anticipated that with the change in the VCO criteria in the 2002 reauthorization of the JJDP Act that Arizona will be able to meet the VCO criteria in the future, thus eliminating a significant portion of reported violations.

A.R.S. § 8-305, paragraph A (page 9d) permits the secure detention of status offenders (incorrigibles) in juvenile detention facilities; therefore, these violations are not in apparent violation of State law. The Arizona Rules of Procedure for the Juvenile Court Rule 23,² Paragraph C (page 9f) time frames have the *potential* to allow for the secure detention of juveniles for up to 48 hours before an initial detention hearing. However, as evidenced by the breakdown of violations, detentions exceeding the allowable time frame before an initial court appearance are not a factor in Arizona's compliance with DSO.

² It should be noted that Arizona Rules of Procedure for the Juvenile Court time restrictions do not exclude weekends or holidays.

8-305. Detention center; jail; separate custody

- A. The county board of supervisors or the county jail district, if authorized pursuant to title 48, chapter 25, shall maintain a detention center that is separate and apart from a jail or lockup in which adults are confined and where juveniles who are alleged to be delinquent or children who are incorrigible and within the provisions of this article shall be detained when necessary before or after a hearing or as a condition of probation. The board may enter agreements with public or private entities to acquire land for, build, purchase, lease-purchase, lease or expand a detention center required by this section.
- B. The board of supervisors or the county jail district, if authorized pursuant to title 48, chapter 25, may provide for the detention of juveniles who are accused or convicted of a criminal offense in a jail or lockup in which adults are confined. A juvenile who is confined in a jail or lockup in which adults are confined shall be kept in a physically separate section from any adult who is charged with or convicted of a criminal offense, and no sight or sound contact between the juvenile and any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.
- C. A juvenile, pending a juvenile hearing, shall not be confined with adults charged with or convicted of a crime, except that:
 - 1. A juvenile who is accused of a criminal offense or who is alleged to be delinquent may be securely detained in such location for up to six hours until transportation to a juvenile detention center can be arranged if the juvenile is kept in a physically separate section from any adult who is charged with or convicted of a crime and no sight or sound contact between the juvenile and any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.
 - 2. A juvenile who is transferred as provided in section 8-327 to the criminal division of the superior court may be securely detained if the juvenile is kept in a physically separate section from any adult charged with or convicted of a crime, and no sight or sound contact with any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.
 - 3. A juvenile who is arrested for an offense listed in section 13-501 may be detained in a juvenile facility until formally charged as an adult. After a juvenile has been formally charged as an adult the juvenile may be securely detained in an adult facility if the juvenile is detained separately from any adult charged with or convicted of a crime, except to the extent authorized under federal laws or regulations.
- D. A child who is alleged to be delinquent or who is alleged to be incorrigible shall not be securely detained in a jail or lockup in which adults charged with or convicted of a crime are detained. A child may be nonsecurely detained if necessary to obtain the child's name, age, residence or other identifying information for up to six hours until arrangements for transportation to any shelter care facility, home or other appropriate place can be made. A child who is nonsecurely detained shall be detained separately from any adult charged with or convicted of a crime, and no sight or sound contact with any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.
- E. Any detained juvenile or child who, by the juvenile's or child's conduct, endangers or evidences that the juvenile or child may endanger the safety of other detained children shall not be allowed to intermingle with any other juvenile or child in the detention center.
- F. Pursuant to section 8-322, the county board of supervisors, the county jail district board of directors or the administrative office of the courts on behalf of the juvenile court may enter into an agreement with public or private entities to provide the detention centers required by subsection A of this section.

4-244. Unlawful acts

It is unlawful:

9. Except as provided in paragraphs 10 and 11 of this section, for a licensee or other person to sell, furnish, dispose of or give, or cause to be sold, furnished, disposed of or given, to a person under the legal drinking age or for a person under the legal drinking age to buy, receive, have in the person's possession or consume spirituous liquor. The provisions of this paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

4-246. Violation; classification

A. A person violating any provision of this title is guilty of a class 2 misdemeanor unless another classification is prescribed.

B. A person violating section 4-244, paragraph 9, 14 or 33 is guilty of a class 1 misdemeanor.

17B A.R.S. Juv.Ct.Rules of Proc., Rule 23

RULES OF PROCEDURE FOR THE JUVENILE COURT PART II. DELINQUENCY AND INCORRIGIBILITY 2. DELINQUENCY AND INCORRIGIBILITY PROCEEDINGS

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Current with amendments received through 09/01/2001

Rule 23. Detention and Probable Cause Hearing

A. Report To Court. Except for an arrest pursuant to a warrant, any person who brings a juvenile to a juvenile court detention facility shall make a report to the authorized juvenile court officer in the manner prescribed by the juvenile court in each county setting forth the reasons why the juvenile should be detained.

B. Admission to Detention. Upon admission to the detention facility, the authorized juvenile court officer shall:

1. Notify the juvenile of the reason for admission;
2. Notify the parent, guardian or custodian of the juvenile of the reason for admission and inform such persons of the location, date and time of the detention hearing. The detention hearing may be held without the presence of the juvenile's parent, guardian or custodian, if they cannot be located or fail to appear for the hearing;
3. Make a written record of the time and manner of notification;
4. Make a determination of whether the juvenile's conduct endangers or could endanger the safety of other detained juveniles and if so, restrict the juvenile's contact with other detained juveniles;
5. Advise the juvenile of the right to telephone a parent, guardian or custodian and counsel immediately after admission to a detention facility; and
6. Advise the juvenile of the right to visitation, in private, by the parent, guardian or custodian and counsel. After the initial visit, the juvenile may be visited during normal visiting hours or by special appointment if required to prepare for a hearing.

C. Length of Detention. No juvenile shall be held in detention for more than twenty-four (24) hours unless a petition alleging incorrigible or delinquent conduct or a criminal complaint has been filed. No juvenile shall be held longer than twenty four (24) hours after the filing of a petition unless so ordered by the court after a hearing. If a hearing is not held within twenty- four (24) hours of the time of filing of the petition, the juvenile shall be released from the detention facility to a parent, guardian, custodian or other responsible person. If no parent, guardian, custodian or other responsible person can be located, the court shall release the juvenile to the Department of Economic Security.

D. Detention Hearing. Probable cause may be based upon the allegations in a petition, complaint or referral filed by a law enforcement official, along with a properly executed affidavit or sworn testimony. If the charging document is an Arizona Ticket and Complaint form, the complaint shall also serve as an affidavit. The affidavit may serve as the oath before a magistrate for purposes of [Rule 2.4, Ariz. R. Crim. P.](#) The victim of the offense has the right to be heard at the detention hearing, as provided by law. A juvenile shall be detained only if there is probable cause to believe that the juvenile committed the acts alleged in the referral, petition, or complaint, and there is probable cause to believe;

1. The juvenile otherwise will not be present at any hearing; or
2. The juvenile is likely to commit an offense injurious to self or others; or
3. The juvenile must be held for another jurisdiction; or
4. The interests of the juvenile or the public require custodial protection; or
5. The juvenile must be held pending the filing of a complaint pursuant to [A.R.S. 13-501](#).

E. Release From Detention. The court may release the juvenile and set such terms and conditions of release as deemed appropriate. Upon release from any detention facility, the court shall advise the juvenile that any violation of release conditions or the failure to appear at future proceedings could result in the issuance of a warrant for the arrest and detention of the juvenile and that the court may proceed with future hearings in the juvenile's absence. Upon request of the victim, the court shall provide the victim with a copy of the terms and conditions of the juvenile's release, as provided by law.

F. Violation of Conditions of Release. The juvenile probation officer responsible for supervising the juvenile or the prosecutor may file a written request with the court to revoke the juvenile's release if there is probable cause to believe the juvenile has violated a condition of release. The request shall state the substance of the conduct which is alleged to have violated the conditions of release previously imposed. The court shall proceed in accordance with the requirements of this rule. If the probation officer or prosecutor does not file a motion to revoke release, nothing shall preclude the victim from filing the request directly with the court, as provided by law.

G. Release to County Jail. Upon the filing of a criminal complaint charging a juvenile with an offense listed in [A.R.S. 13-501](#), the juvenile may be released from the juvenile detention facility to the county jail. The filing of a criminal complaint shall be the date of arrest for purposes of Rules 4 & [8.2, Ariz. R. Crim. P.](#)

H. Review of Detention. The court may review the detention status of a juvenile upon written motion of the juvenile, the prosecutor or upon the court's own motion. The motion must allege material facts not previously presented to the court. A hearing on the motion to review detention status shall be held within five (5) days of the filing of the motion. The victim has the right to be heard concerning the release of the juvenile and the conditions of release, as provided by law. Acceleration of the motion may be granted upon written request demonstrating extraordinary circumstances and that the acceleration is necessary in the interests of justice.

CREDIT

CREDIT(S)

2001 Electronic Update

Added Oct. 27, 2000, effective Jan. 1, 2001. Amended nunc pro tunc, Jan. 11, 2001, effective Jan. 1, 2001.

Criterion C: The extent to which an acceptable plan has been developed.

Criterion C:

Criterion C is the extent to which an acceptable plan has been developed which is designed to eliminate the noncompliant incidents within a reasonable time, where the instances of noncompliance either (1) indicate a pattern or practice, or (2) appear to be consistent with State law or established executive or judicial policy, or both.

If the State determines that the instances of non-compliance (1) do not indicate a pattern or practice, and (2) are inconsistent with and in apparent violation of State law or established executive or judicial policy, then the State must explain the basis for this determination. In such case no plan would be required as part of the request for a finding of full compliance.

The following must be addressed as elements of an acceptable plan for the elimination of non-compliant incidents that will result in the modification or enforcement of state law or executive or judicial policy to ensure consistency between the State's practices and the JJDP Act deinstitutionalization requirements.

1. If the instances of non-compliance are sanctioned by or consistent with State law or executive or judicial policy, then the plan must detail a strategy to modify the law or policy to prohibit non-compliant placement so that it is consistent with the Federal deinstitutionalization requirement.
2. If the instances of non-compliance are in apparent violation of State law or established executive or judicial policy, but amount to or constitute a pattern or practice rather than isolated instances of noncompliance, the plan must detail a strategy which will be employed to rapidly identify violations and ensure the prompt enforcement of applicable State law or executive or judicial policy.
3. The plan must be targeted specifically to the agencies, courts, or facilities responsible for the placement of status offenders and nonoffenders in compliance with DSO. It must include a specific strategy to eliminate instances of non-compliance through statutory reform, changes in facility policy and procedure, modification of court policy and practice, or other appropriate means.

If OJJDP makes a finding that a State is in full compliance with de minimis exceptions based, in part, upon the submission of an acceptable plan under Criteria C above, the State will be required to include the plan as part of its current or next submitted formula grant plan as appropriate. OJJDP will measure the State's success in implementing the plan by comparison of the data in the next monitoring report indicating the extent to which non-compliant incidences have been eliminated.

Criterion C

1. If the instances of non-compliance are sanctioned by or consistent with State law or executive judicial policy, then the plan must detail a strategy to modify the law or policy to prohibit non-compliance placement so that it is consistent with the Federal deinstitutionalization requirement.

Answer:

As stated in Criterion B, State law sanctions some reported violations of the DSO regulation. Specifically, this includes A.R.S. § 4-246, which defines possession or consumption of spirituous liquor by a minor as a class one misdemeanor. In addition, A.R.S. § 8-305, paragraph A provides for the use of juvenile detention facilities to detain status offenders (incorrigible children).

Although Arizona's state laws are not *entirely* consistent with the JJDP Act core requirements, *the differences between the two are not significant factors in Arizona's DSO violations.*

For example, as detailed in Criterion B, answer number 2, over half of the DSO violations committed by adult jails and lockups *are* in violation of State law.

In addition, 62 percent of Arizona's DSO violations in juvenile detention centers were Federal Wards or out-of-state runaways and another 28 percent are cases that may fall under the Valid Court Order category. Therefore, **only 10 percent of the violations were detentions that may not be possible exceptions.**

Arizona anticipates being able to utilize the Valid Court Order exception in the future with the change in the criteria through the reauthorization. Efforts are currently underway to assess modifications necessary to meet the checklist items and the Governor's Division for Children will be working with juvenile courts to implement this process.

Other factors that will have an impact on future violations occurring in adult jails and lockups include OJJDP's recent reinterpretation of the definition of secure status in an adult jail or lockup and significantly increased training efforts by the Governor's Division for Children (as described in detail in the answer to question number 3).

2. If the instances of non-compliance are in apparent violation of State law or established executive or judicial policy, but amount to or constitute a pattern or practice rather than isolated instances of non-compliance, the plan must detail a strategy which will be employed to rapidly identify violations and ensure the prompt enforcement of applicable State law or executive judicial policy.

Answer:

All instances of non-compliance that were in apparent violation of State law or established executive judicial policy were isolated incidents and do not constitute a pattern or practice. Immediate follow-up is conducted regarding reported violations and technical assistance regarding the JJDP Act regulations provided, if necessary.

3. The plan must be targeted specifically to the agencies, courts, or facilities responsible for the placement of status offenders and nonoffenders in compliance with DSO. It must include a specific strategy to eliminate instances of non-compliance through statutory reform, changes in facility policy and procedure, modification of court policy and practice, or other appropriate means.

Answer:

Arizona has consistently sought to develop and refine its compliance monitoring process. In early 2001, changes in the staff of the Governor's Division for Children provided an opportunity to carefully examine the compliance monitoring process and pursue opportunities for additional enhancement. This process included:

- 1) Assessment of current status
- 2) Review of the Compliance Monitoring Universe (CMU)
- 3) Reporting process renovation
- 4) Classification and training
- 5) Implementation and evaluation

Assessment of the Current Status

To enable Arizona to accurately demonstrate compliance, intensive technical assistance was necessary throughout the State in the following areas:

- Ensuring all appropriate facilities within the state are included in the CMU;
- Educating agencies in the CMU and their communities about compliance with the four core requirements of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 and how to maintain compliance;
- Assessing and notifying agencies of the appropriate classification;
- Reviewing the tracking processes across the State, and initiation/revision of the process (as necessary) to ensure all data required to demonstrate compliance was collected;
- Revising all Governor's Division for Children reporting forms and training to communities on accurate completion and submission;
- Training regarding terminology used in the JJDP Act and its core requirements, as well as how the rules apply to specific facilities; and,
- Providing technical assistance that is community/agency specific.

These activities, targeting approximately 130 secure facilities around the state, as well as the same number of non-secure facilities that are included in the CMU, have been crucial in accurately identifying the compliance issues within each community and developing strategies for best addressing them.

Review of the Compliance Monitoring Universe

The Governor's Division for Children maintains a database that contains information about all entities that fall under the CMU. At the initiation of the enhancement process, a comprehensive review of the existing CMU was conducted. As a result of this effort, *the number of facilities within the CMU doubled.*

The number of facilities included in the compliance monitoring universe continues to expand dramatically, paralleling state growth. This growth necessitates continual assessment of new facilities, (including shopping centers, municipal airports, community and state colleges, sporting complexes, etc.) which may have to be included in the CMU.

A comprehensive review of the facilities in the CMU (such as adult jails and lockups, secure and non-secure shelters, foster care, group homes, juvenile residential treatment facilities, and juvenile detention and correctional facilities) is conducted on an annual basis. The review is based on information received from agencies such as the Arizona Criminal Justice Commission, the Department of Health Services, the Department of Economic Security, the Administrative Office of the Courts, the Arizona Department of Juvenile Corrections, and information received while conducting site visits.

Reporting Process Renovation

The compliance reporting forms previously in use were reviewed and revised to capture all necessary compliance data. Phone contact was made and letters were sent to all agencies within the CMU describing the JJDP Act, its core requirements, requesting a response regarding facility classification, and describing the reporting process. The revision of the reporting forms has streamlined the process, and an instruction sheet for its use has been developed and disseminated. In addition, continual phone and in-person technical assistance regarding the reporting process is provided. Parenthetically, as agencies more fully understand expectations and the necessity of reporting accurate and complete data, increased collaboration and cooperation in addressing compliance issues has resulted.

Examples of changes to the data review process that have had a significant impact on the number of violations reported (specifically in reference to DSO) includes incorporating the review of the following charges:

- Minor in possession of alcohol;
- Violations of probation;
- Warrants;
- Federal Wards; and,
- Courtesy holds for Native American reservations.

For purposes of data collection and verification, each secure jail and lockup that may temporarily detain juveniles, as well as all juvenile detention centers, are required to complete a monthly reporting form and submit this to the Governor's Division for Children. Accompanying the form is a copy of the tracking documents/reports, so data may be verified on a continual basis. Facilities that have been determined to be exempt from regular reporting (either by their non-secure status or policies prohibiting temporary detention of juveniles) must submit an annual certification to confirm their exempt status.

Since the initiation of the enhanced reporting process, the number of facilities reporting compliance data increased significantly. ***The number of adult jails and lockups reporting rose from 27 percent in FY2000 to over 95 percent in FY2001 and almost 98 percent in FY2002; the number of juvenile detention centers reporting went from 64 percent to 100 percent and remains there through the FY2002 reporting year.***

Classification and Training

In addition to phone and letter contacts to all agencies included in the CMU, site visits were also made to each law enforcement agency and its substation facilities, as well as every county juvenile detention center. *As a result of this effort, the number of site visits to secure facilities during the 2001 reporting year more than doubled from previous years.* In addition, site visits to juvenile detention facilities increased 40 percent from the 2001 reporting year, as 100 percent of facilities were visited; visits to adult jails increased 18 percent from 2001 to 2002 (65 percent visited); an increase of 25 percent was also seen in site visits to adult jails and lockups between the 2001 and 2002 years, with 97 percent of the facilities receiving a site visit. It should be noted that 60 of the 75 non-secure facilities in the Compliance Monitoring Universe (80 percent) also received site visits during the 2002 reporting year.

With the completion of these site visits in the 2002 reporting year, all law enforcement agencies currently in the Compliance Monitoring Universe have received site visits and been advised of their reporting requirements since the initiation of the enhanced compliance monitoring process in early 2001.

By ensuring each agency received a visit, the following goals were achieved:

- Correct classification was verified;
- Appropriate reporting methods were initiated;
- Agency-specific technical assistance regarding compliance with the JJDP Act core requirements was provided on-site;
- General discussion took place regarding juvenile issues in the community and the funding opportunities made available through compliance with the JJDP Act; and,
- A comprehensive written report was submitted to each facility after the initial visit to provide a written reference guide for temporary detention of juveniles in their facility in order to maintain compliance with the core requirements.

Implementation and Evaluation

A substantial number of facilities within each classification (jail, lockup, detention center, non-secure, etc.) are monitored each year to ensure continued correct classification and for compliance with DSO, separation, and jail removal. As demonstrated above, the number of site visits conducted within each classification now far exceeds the 10 percent requirement established by OJJDP.

A manual detailing compliance monitoring activities in Arizona has been developed. This guide is a supplement to the OJJDP's *Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 1974, as Amended*. Arizona's manual outlines specific activities regarding various compliance monitoring tasks, such as data collection and extraction of violations, ensuring the compliance monitoring universe is up to date, site visit mandates, etc. As the compliance monitoring process is enhanced and developed in Arizona, the manual is updated to reflect the improved procedures.

As a result of the compliance monitoring enhancement process, a number of positive results have been achieved:

- Excellent relationships have been developed with facilities that fall under the CMU;
- Many local law enforcement agencies have revised or implemented department policies and procedures that either reference the JJDP Act or are in accordance with its core requirements; and,
- Facilities have been very cooperative in developing/enhancing adequate record-keeping systems regarding juveniles temporarily held in the facility.

Activities Designed to Address Compliance Issues

Arizona continues to devote much time and attention to the issue of complying with the core requirements. First and foremost, this is evident in the priority given these issues in recent years by Arizona's State Advisory Group, the Arizona Juvenile Justice Commission, as shown below.

Year	Funding for Compliance Monitoring	Funding for DSO	Funding for Jail Removal	Funding for Separation	Funding for DMC
2000 Three-Year Plan	35,850	35,820	35,820	35,820	143,280
2001 Three-Year Plan Update	35,100	161,250	35,100	35,100	134,500
2002 Three-Year Plan Update	58,000	161,338	100,000	58,000	161,337
Total Dollar Increase from 2000 to 2002	+ 22,150	+ 125,518	+ 64,180	+ 22,180	+ 18,057

Funding for programs that address the DSO core requirement have been defined as priority activity areas for the past few years in the Title II and Challenge grant Request for Grant Applications (RFGA). Listed below are some examples of programs that have been funded under these activity areas:

- **Maricopa County Juvenile Court – Project SOAR (Status Offender Alternative Response):** Juvenile Probation alternative program to divert status offenders from the formal court system and detention.
- **Maricopa County Juvenile Court – FINS (Families in Need of Services) Unit:** Streamlines the process the juvenile court uses to deal with status offenders to divert them from the formal court process; supports a Family Reunification and Assessment Specialist, Intervention Specialists, and Mediators to provide services to status offenders and their families.
- **Prehab of Arizona – Mayfield Center:** Crisis intervention services and community-based diversion program; Serves as an alternative to detention for law enforcement.
- **Westside Social Services - Juvenile Alternatives in Glendale (JAG Center):** Crisis intervention services and a community-based diversion program; Serves as an alternative to detention for law enforcement.
- **Open Inn – Center for Juvenile Alternatives (Tucson):** Crisis intervention services and a community-based diversion program; Serves as an alternative to detention for law enforcement; Provides community outreach services regarding the alternative center and how use can assist with maintaining compliance with the JJDP Act.

- **Tumbleweed Center for Youth Development – Open Hands Program:** Emergency shelter and counseling services for court-referred non-system youth, which includes status offenders (incorrigibles, runaways).
- **Northland Family Help Center:** Provides prevention and shelter services for non-adjudicated minors and their families, and serves as diversion from the formal juvenile court process.
- **Deveraux Arizona – Northern Arizona Youth Alternative Center (NAYAC):** Serves as an alternative to detention for law enforcement.

Compliance/Legislative Committee

Arizona reviews compliance issues on a regular basis through the efforts of the Compliance/Legislative Committee, a subcommittee of the Arizona Juvenile Justice Commission. In September 2001, the Committee hosted a facilitated meeting to discuss status offenders and the State's compliance with the JJDP Act. Participation included other juvenile justice stakeholders in the state, specifically the Department of Economic Security, the Public Defender's Office, the County Attorney's Office, and the Administrative Office of the Courts (representing the state's juvenile bench and probation departments). Discussions ensued regarding the possible implications for these stakeholders if legislative changes were pursued. This meeting generated several possible avenues to improve compliance, including recognition of the importance of developing a valid court order process that meets all requirements and a plan to review best practices from other states.

The meeting participants recognized that compliance with the JJDP Act is a broad, complex, and critical issue in Arizona. The participants identified and recognized that failure to address compliance issues could result in:

- A loss of federal funds.
- Youth and family needs being unmet.
- More youth may be detained.
- Lack of enforcement of the federal regulations could reduce the pressure to detain youth appropriately.
- Youth who may have been diverted from the system due to early intervention efforts may become 'system' youth.
- The long-term increased financial and societal costs associated with not addressing these issues.

Other specific examples of efforts undertaken by Arizona in addressing DSO are:

- Reference cards detailing the core requirements and keys to compliance made available for each officer of a law enforcement agency (sample enclosed);
- Full page printouts of the core requirements mailed to each secure facility for posting in the secure area to remind officers of compliance (sample enclosed);
- Many law enforcement departments have been willing to modify their departmental procedures regarding temporary holding of juveniles to correlate to the JJDP Act core requirements;
- Facility-specific training provided to law enforcement agencies at briefings or supervisor's meetings;
- Information packets provided to each agency at the initial site visit to provide written materials about compliance, reporting, and delinquency prevention grants;
- Strong collaboration with the juvenile court in the largest county in the state to provide in-depth review of the violations and support efforts undertaken to eliminate violations, which in turn created a new division in the department to divert status offenders from the court/detention process;

- Presentations made to organizational entities such as Policy Prevention Boards, Community Advisory Boards, Committee on Juvenile Courts, and probation and judicial officers to promote awareness of and compliance with the core requirements in the community in arenas outside of law enforcement;
- Regular contact with facilities (outside of site visits) to determine if any compliance assistance is required;
- Partnership with the Governor's Division of Community Outreach to enhance training and education efforts, and funding opportunities, regarding the core requirements of the JJDP Act, specifically DSO.
- Support and funding of programs such as intake screening detention tools, short-term placement, and prevention and intervention programs specifically targeting status offenders;
- Advocate for policy and/or statute in consonance with the JJDP Act for status offenders who are referred to the juvenile justice system.
- Arizona Juvenile Justice Commission and community interest in, and pursuit of, opportunities provided by the Coalition of Juvenile Justice regarding the Annie E. Casey Foundation Juvenile Detention Alternative Initiative;
- Arizona Juvenile Justice Commission newsletter, FORUM, recently dedicated an issue to discussing compliance with the core requirements. This newsletter is delivered to juvenile justice stakeholders around Arizona.
- Immediate follow up by the Governor's Division for Children on reported violations and documenting of agency responses to these violations; and,
- Continual compliance updates at Compliance/Legislative committee meetings (subcommittee of the Arizona Juvenile Justice Commission), including discussion of the Valid Court Order process, Federal Wards, and alternatives to detention.

In summary, significant and extensive progress has been made within Arizona's juvenile justice system to the positive challenge posed by the deinstitutionalization of status offenders (DSO) core requirement. Arizona has successfully responded to this challenge with focused and proactive initiatives designed to further reduce potential violations to this mandate. **Arizona's system of comprehensive data collection, increased and specialized training, enhanced technical assistance, best practice programmatic activities, and prioritized fiscal goals, offer a systematic and comprehensive program that, given time, will inevitably result in achieving optimal results.** Arizona welcomes this opportunity to share our progress and success with OJJDP.

If OJJDP makes a finding that a State is in full compliance with de minimus exceptions based, in part, upon the submission of an acceptable plan under Criteria C above, the State will be required to include the plan as part of its current or next submitted formula grant plan as appropriate. OJJDP will measure the State's success in implementing the plan by comparison of the data in the next monitoring report indicating the extent to which non-compliance incidences have been eliminated.

Arizona Compliance Monitoring Report 2002 State Summary: Separation

Section 223(a)(13): Separation of Juveniles and Adults.

The number of juvenile offenders and nonoffenders not separated from adult criminal offenders: **2**

Please provide an attachment of the progress made in achieving this requirement. As part of this discussion, include the items listed below.

Attach a summary to discuss the extent of the State's compliance in implementing Section 223(a)(13), and how reductions have been achieved, including the identification of State legislation which directly impacts on compliance. Discuss any proposed or recently passed legislation or policy which has either positive or negative impact on achieving or maintaining compliance. As part of this summary, answer the following:

1. Did all instances of noncompliance violate State law, court rule, or established executive or judicial policy?
2. Did the instances of noncompliance indicate a pattern or practice?
3. Are existing mechanisms for enforcing the State's separation law, court rule, or other established executive or judicial policy such that the instances of noncompliance are unlikely to recur in the future?
4. Describe the State's plan to eliminate the noncompliant incidents.

Attach a summary to discuss the extent of the State's compliance in implementing Section 223(a)(13), and how reductions have been achieved, including the identification of State legislation which directly impacts on compliance. Discuss any proposed or recently passed legislation or policy which has either positive or negative impact on achieving or maintaining compliance. As part of this summary, answer the following:

1. Did all instances of non-compliance violate State law, court rule, or established executive or judicial policy?

Answer:

Both violations of this regulation were apparent violations of State law. A.R.S. § 8-305, paragraph C1 mandates that alleged delinquents must be "kept in a physically separate section from any adult who is charged with or convicted of a crime and no sight or sound contact between the juvenile and any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations."

2. Did the instances of non-compliance indicate a pattern or practice?

Answer:

No, the instances of non-compliance do not indicate a pattern or practice. The two violations stem from one incident involving two juveniles in one police department. The violations were committed as a result of officer error. The issue was immediately addressed by department officials and the compliance monitor was notified of the incident promptly.

The violations reported in the 2002 Compliance Report are the same violations that appear in Arizona's 2001 Compliance Monitoring Report, due to the change in reporting period. Since this incident, there have been no other violations of the separation regulation.

3. Are existing mechanisms for enforcing the State's separation law, court rule, or other established executive or judicial policy such that the instances of non-compliance are unlikely to recur in the future?

Answer:

Specific mechanisms for enforcing State law are not in place in the Governor's Division for Children, the agency that conducts compliance monitoring activities for Arizona, as it does not serve as an enforcement agency.

When an agency reports a violation, immediate follow-up is conducted to determine the circumstances surrounding the violation, any necessary follow-up activities, and remind officials of the federal regulations. Also an agency or community may be referred to the local County or City Attorney's office, as violations are also violations of Arizona State Law.

JJDP Act funding may be withheld from a community that is not in compliance with any one of the core requirements. Communities are not permitted to apply for Title V funds if a finding of non-compliance is rendered. In addition, compliance plans are required for those communities that are in the de minimus range. The concept of requiring compliance plans for communities that are in receipt of other JJDP Act funding is currently being explored.

4. Describe the State's plan to eliminate the non-compliance incidents.

Answer:

As previously stated, the instances of non-compliance were one isolated incident in one police department. The issue was immediately addressed. Therefore, no future incidents of non-compliance are anticipated.

Arizona Compliance Monitoring Report 2002 State Summary: Jail Removal

Section 223(a)(14): Removal of juveniles from adult jails and lockups.

Rate of jail removal violations per 100,000 population under 18: **13.90**

The State does not qualify for the numerical de minimis exception. Please attach a narrative describing the substantive de minimis information listed below. There is no need to address the numerical de minimis information.

Numerical De Minimis: The extent that noncompliance is insignificant or of slight consequence.

Acceptable Plan: Describe the State's plan to eliminate the noncompliant incidents through the enactment or enforcement of State law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

Substantive De Minimis: The extent that noncompliance is insignificant or of slight consequence.

1. Recently Enacted Changes in State Law Exception to Substantive De Minimis: Describe recently enacted changes in State law which have gone into effect, and which can reasonably be expected to have a substantial, significant, and positive impact on the State's achieving full (100%) compliance, or full compliance with the with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.
2. Were all instances of noncompliance in violation of or departures from State law, court rule, or other Statewide executive or judicial policy?
3. Do the instances of noncompliance indicate a pattern or practice, or do they constitute isolated instances?
4. Are existing mechanisms for enforcement of the State law, court rule, or other Statewide executive or judicial policy such that the instances of noncompliance are unlikely to recur in the future?
5. Describe the State's plan to eliminate the noncompliant incidents and to monitor the existing enforcement mechanism.

Substantive De Minimus: The extent that non-compliance is insignificant or of slight consequence.

1. Recently Enacted Changes in State Law Exception to Substantive De Minimus: Describe recently enacted changes in State law which have gone into effect, and which can reasonably be expected to have a substantial, significant, and positive impact on the State's achieving full (100%) compliance, or full compliance with the de minimus exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

Answer:

There are no recently enacted changes in Arizona state law that will have a significant impact upon the State achieving full compliance with the jail removal regulation. However, most of Arizona's jail removal violations are instances of status offenders held securely in an adult jail or lockup (84 percent). Therefore, programs recently funded by the Arizona Juvenile Justice Commission, as described in DSO Criterion C, will assist with law enforcement compliance, as several alternatives to detention have been funded (for example, J.A.G. Center, Mayfield Center, NAYAC, Center for Juvenile Alternatives, and Open Hands.)

Other factors that will have an impact on future removal violations include OJJDP's recent reinterpretation of the definition of secure status in an adult jail or lockup and significantly increased training efforts by the Governor's Division for Children (as described in detail in the answer to DSO Criterion C, question number 3).

2. Were all instances of non-compliance in violation or departures from State law, court rule, or other Statewide executive or judicial policy?

Answer:

Of the 190 jail removal violations in the 2002 reporting year, 123 violations (65 percent) were in apparent violation of A.R.S. § 8-305, paragraph C1 or paragraph D (page 9d). The remaining 67 violations (35 percent) that were not in violation of state law are minor in possession offenses, as Arizona State Law defines minor in possession as a delinquent offense (page 9e).

It should be noted that only 31 violations (16 percent) were violations of the six-hour secure detention rule; the remaining 159 (84 percent) violations were instances of accused status offenders or non-offenders securely detained in an adult jail or lockup for any length of time.

3. Do the instances of non-compliance indicate a pattern or practice, or do they constitute isolated instances?

Answer:

All instances of non-compliance were isolated incidents. Immediate follow-up is conducted regarding reported violations and technical assistance regarding the JJDP Act regulations provided, if necessary.

4. Are existing mechanisms for enforcement of the State law, court rule, or other Statewide executive or judicial policy such that the instances of non-compliance are unlikely to recur in the future?

Answer:

Specific mechanisms for enforcing State law are not in place in the Governor's Division for Children, the agency that conducts compliance monitoring activities for Arizona, as it does not serve as an enforcement agency.

However, the Governor's Division for Children does work with local communities who are receiving Formula Grant dollars to develop a community compliance plan. By doing so, this enhances community awareness of compliance status and fosters partnerships in how best to address a community's compliance needs.

JJDP Act funding may be withheld from a community that is not in compliance with any one of the core requirements. Communities are not permitted to apply for Title V funds if a finding of non-compliance is rendered. In addition, compliance plans are required for those communities that are in the de minimus range. The concept of requiring compliance plans for communities that are in receipt of other JJDP Act funding is currently being explored.

In addition, when an agency reports a violation, immediate follow-up is conducted to determine the circumstances surrounding the violation, any necessary follow-up activities, and remind officials of the federal regulations.

Finally, if an agency or community is having numerous compliance issues, specific regional training may be provided; a referral to the local County or City Attorney's office may also be suggested if violations reported are also violations of Arizona State Law.

5. Describe the State's plan to eliminate the non-compliant incidents and to monitor the existing enforcement mechanism.

Answer:

As the majority of the violations of this regulation center around the secure detention of status offenders or non-offenders (84 percent), the state plan outlined in the DSO state summary, Criterion C, is applicable to this question.

Arizona Compliance Monitoring Report

2002 Compliance Monitoring Report Checklist

Please include the following information with the State's Compliance Monitoring Report:

- ☐ A copy of this Compliance Monitoring Report, including the State Summary pages, this checklist, and the OJJDP Worksheet page.
- ☐ Not applicable.
- ☐ Not applicable.
- ☐ Not applicable.
- ☐ Not applicable.
- ☐ Not applicable.
- ☐ Not applicable.
- ☐ Not applicable.
- ☐ Not applicable.
- ☐ Not applicable.
- ☐ Not applicable.
- ☐ An attachment of the progress made in achieving the separation requirement. Include in this summary items 1-4 found in the State Summary: Separation section of this monitoring report.
- ☐ Not applicable.
- ☐ Please attach a narrative describing the substantive de minimis information listed in the State Summary: Jail Removal section. There is no need to address the numerical de minimis information.

Please print and submit this Monitoring Report Data Worksheet with your Annual Compliance Monitoring Report. It is used by OJJDP to track States' compliance. DO NOT MAKE ANY CHANGES TO THIS WORKSHEET.

Monitoring Report Data Worksheet

State: **Arizona** Year: **2002** Sup: Reviewer:

Juvenile Population: **# Under 18: 1366947** State Age of Majority: **18** # by State Definition:

Section 223(a)(12)(A) DSO

Current Dates (Start/End)

07/01/01

07/01/02

Number of VCOs:

0

	Accused	Adjudicated	Total
Totals			
Juvenile Detention	398	4	
Training School	0	0	
Adult Jails	0	0	
Adult Lockups	159	0	
ONA	0	0	

Out of State Runaways:

54

Federal Wards:

194

Section 223(a)(13)(A) Separation

Current Dates (Start/End)

07/01/01

07/01/02

	# Facilities w/o Sep	# of Juveniles
Current		
Jails + Other	0	0
Lockups	1	2

Section 223(a)(14)(A) Removal

Current Dates (Start/End)

07/01/01

07/01/02

Facilities					Criminal Type Offenders						# Exceptions Held
# Jails	# Holding	# Lockups	# Holding	# Exceptions	# Accused in Jail	# Accused in LU	# Adjudicated In Jail	# Adjudicated in LU	# SO in Jail	# SO In LU	
34	2	98	62	0	0	31	0	0	0	159	0